

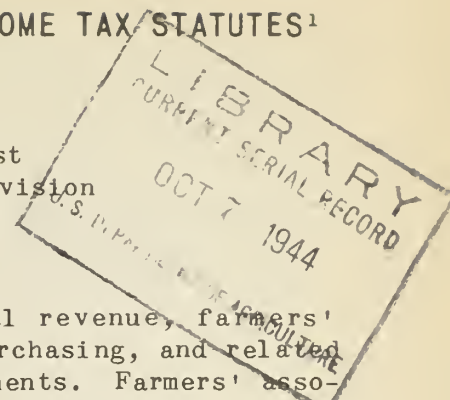
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FARMERS' COOPERATIVES AND THE FEDERAL INCOME TAX STATUTES¹

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Under the Federal statutes relating to internal revenue, farmers' cooperative associations engaged in marketing, purchasing, and related activities are exempt if they meet certain requirements. Farmers' associations, therefore, have an important interest in knowing what these requirements are, how an association may qualify for exemption and prove its exempt status, and how exemption may be maintained.

With the enactment of the Revenue Act of 1943 on February 25, 1944, still another reason for interest in exemption has become important. Under the provisions of this Act many organizations, exempt from the payment of Federal income taxes, for the first time are required to file annual information returns. Included in this group are exempt agricultural marketing and purchasing associations. If an organization desires to file an information return it must prove that it is exempt by obtaining a letter of exemption from the Commissioner of Internal Revenue. An organization claiming to be exempt but which does not hold a letter of exemption is required to establish its exemption by filing proof of exemption on Treasury Department Form 1028 and obtaining a favorable ruling thereon at or prior to the time its information return is due.

Some eligible cooperatives have not established their exemption by obtaining a letter of exemption from the Commissioner of Internal Revenue. This publication has been prepared to present in brief form information

¹This brief presentation of some of the important considerations relating to exemption of farmers' cooperative marketing and purchasing and related associations from payment of the Federal income tax has been prepared at the request of cooperative associations. It is not intended to be a complete and detailed statement, but is rather a condensed summary of some important points that cooperatives should keep in mind regarding exemption.

Sources used include the Internal Revenue Code and Regulations 111 of the United States Treasury Department, Bureau of Internal Revenue, relating to the income tax under the Internal Revenue Code. Acknowledgment is made of two other sources used in the preparation of this summary: "Application of the Federal Income Tax Statutes to Farmers' Cooperatives," Farm Credit Administration Misc. Rpt. 63, by George J. Waas and Daniel G. White, and "Legal Phases of Cooperative Associations," Farm Credit Administration Bul. 50, by L. S. Hulbert. Those interested in a more complete and detailed presentation will do well to refer to both of these publications as well as to the Internal Revenue Code and the Regulations.

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relating to the requirements for exemption, and how exemption may be maintained. It should prove of interest to those associations that have already obtained a ruling that affirms their exempt status and to other associations claiming to be exempt but which have taken no steps to prove their exemption.

REQUIREMENTS FOR EXEMPTION OF AGRICULTURAL MARKETING AND
PURCHASING ASSOCIATIONS FROM FEDERAL INCOME TAXES UNDER
SECTION 101(12) OF THE INTERNAL REVENUE CODE

1. The organization must be a farmers', fruit growers', or like association, organized and operated on a cooperative basis for the purpose of
 - (a) Marketing the products of members or other producers, or
 - (b) Purchasing supplies and equipment for the use of members of other persons.
2. Member and nonmember patrons must be treated alike.
3. Value of business done with nonmembers must not exceed the value of business with members, and the value of purchases of supplies and equipment by persons who are neither members nor producers shall not exceed 15 percent of the value of purchases by all patrons.
4. Permanent records of the patronage and equity interests of all members and nonmembers must be maintained.
5. Financial reserves are restricted to those required by State laws or to those that are reasonable and necessary.
6. If the association is organized on a capital share basis, substantially all of the voting stock must be held by producers who are currently patronizing the association.
7. Dividend rate on capital shares must not exceed the legal rate of interest in the State of incorporation, or 8 percent per year based on the value of the consideration for which the capital share was issued.
8. The legal structure of the organization must be cooperative in character and contain no provisions inconsistent with these requirements, and the association must be actually operated in the manner and for the purposes outlined in the requirements.

The eight requirements stated above in summary form comprise the essential provisions upon which exemption is based. Through regulations and through court decisions, interpretations of these requirements have resulted in a clearer understanding of their application to cooperative organization structures and operating methods. Some of the more important considerations relating to the requirements follow.

REQUIREMENT I. FIELDS OF OPERATION

Section 101(12) of the Internal Revenue Code provides that the following organizations shall be exempt from taxation:

"(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses ..."

The term "like associations," has been construed to include roadside markets or farmers' markets operated by farmers' organizations for the benefit of their members.

"Marketing," within reasonable limits, includes related operations performed for the purpose of facilitating the distribution of patrons' products. Marketing operations may include harvesting, hauling, manufacturing, packaging, and processing farm products for farmers.

Both agency-type organizations and organizations taking title to products received from or sold to patrons may qualify as exempt associations.

An exempt association may borrow funds and extend credit when these activities are normally related to its marketing and purchasing operations.

Cooperative financing organizations for the financing of the ordinary crop operations of members or other producers may be organized by exempt farmers' marketing and purchasing associations, or their members, and may be ruled exempt if operated in conjunction with a marketing or purchasing association exempt under Section 101(12). Such associations are eligible for exemption under paragraph (13) of Section 101 of the Internal Revenue Code.

Dusting, fumigating, spraying, and other production services may be carried on by exempt associations.

An exempt association may appoint an individual or other representative to purchase farm products or to sell farm supplies to producers on an agency basis. In such cases, it is essential that (1) a written contract be executed, (2) prices be determined by the association, and (3) patronage refunds be made to the patrons served by the agent.

Supplies and equipment have been determined to include groceries and all other goods and merchandise used by the farmer in the operation and maintenance of the farm or the farmer's household.

Grinding of grain or other collateral services, including the manufacture of farm supplies, performed in connection with patrons' purchases of supplies and equipment, are believed to be proper functions of exempt organizations.

The operation of oil wells and the extraction of crude petroleum have been held by the Bureau of Internal Revenue to be proper activities of exempt associations.

The renting of frozen food lockers and the furnishing of processing and other services relating to such storage may be performed by exempt associations. The renting of frozen food lockers is regarded as a purchasing transaction by the Bureau of Internal Revenue. Accordingly, not over 15 percent of such business may be with individuals who are neither members nor producers. '

An exempt association may own and operate a subsidiary corporation for carrying on activities that it could perform directly without losing its exemption. Unless the purposes for which a subsidiary is formed and operated by an exempt agricultural organization are in conformity with the proper functions of the parent organization, the effect upon the parent association's exemption status may be detrimental. '

Control of a nonexempt subsidiary corporation may have a detrimental effect upon the parent association's exemption.

Marketing farm products of nonproducers or dealers, or the purchase of products from these sources, by a marketing association will furnish reason for cancelation of the exemption. Exceptions include business done for the United States or any of its agencies. A possible exception is the emergency purchase of products. It is advisable that such situations be immediately reported to the Commissioner of Internal Revenue for his opinion regarding the effect of the activities upon continuation of the exemption. Of course, a purchasing association may obtain its supplies of goods from any source.

Rendering of services not directly related to marketing and purchasing may be grounds for loss of exemption.

Before entering an unrelated line of business an exempt marketing or purchasing association should determine whether the new line of business will affect the association's exemption status.

Federated types of cooperative associations under certain conditions may also be declared exempt by the Commissioner of Internal Revenue.

Cooperative organizations engaged in occupations dissimilar from those of farmers, fruit growers, and the like, such as marketing building materials, cannot qualify as exempt organizations under paragraph (12) of Section 101 of the Internal Revenue Code.

REQUIREMENT 2. MEMBERS AND OTHER PATRONS MUST BE TREATED ALIKE

The exemption statute provides that an association to be exempt from Federal income taxation must be "organized and operated on a cooperative basis."

All patrons are to be accorded equality of treatment in conformity with the mutual character of cooperative organization and operation. This means that there shall be no discrimination between members or against nonmember patrons in pricing, pooling or payment of sales proceeds, in prices of supplies and equipment, in fees charged for services, in handling of patronage refunds, or in allocation of reserves retained by the association.

Exempt marketing and purchasing associations are required to allocate any net operating savings to all patrons, both members and nonmembers, on an equitable basis at least once annually.

Allocation of savings of exempt marketing and purchasing cooperatives must be made among all patrons according to the proportionate volume of business done by the association with each patron. This allocation may be based on product units or dollar value. All net savings, after provision for limited dividends on capital shares, must be allocated on a patronage basis to all patrons.

Savings may be allocated to patrons on such bases as (1) units (bushels, pounds, etc.) and grades of products purchased or marketed for patrons; (2) dollar amounts of products purchased for patrons; (3) dollar amounts of marketing fees, commissions, packing or other service fees assessed patrons; or (4) dollar amounts of supplies turned over to patrons based on purchase cost to the association or on prices billed to patrons. If the gross margin on transactions with individual patrons is known, an association may determine the savings on the transactions by deducting operating expenses from the gross margin, provided the expenses have been determined on a reasonable and fair basis.

An exempt association may withhold and retain a nonmember patron's pro rata share of savings until the retained amounts are equal to the value of a capital or membership share, if the nonmember is eligible for membership. Patronage refunds due nonmembers must be paid in the same manner and at the same time as payments to members.

An exempt supply association must treat nonfarmer patrons, including tourists and transients, on an equal basis with other patrons when allocating or paying patronage refunds.

REQUIREMENT 3. BUSINESS WITH NONMEMBERS MUST NOT EXCEED BUSINESS WITH MEMBERS

The exemption statute provides that a farmers', fruit growers', or like association

"... may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for

members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percentum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;..."

If an association is engaged in both marketing and supply operations, it must determine separately its business with nonmember patrons in each department. It is required that the operations in each department meet the requirements for exemption.

In determining the division of business between members and nonmembers any of the following measures of dollar amounts may be used: (1) value of products purchased from patrons; (2) net sales proceeds from products marketed for patrons; (3) value of fees or commissions, packing, or other service charges to patrons; (4) value of supplies and equipment purchased for patrons and delivered to them, based on purchase cost to the association or on prices billed to patrons.

The requirement that nonmember-nonproducer business shall not exceed 15 percent of the value of all purchases applies primarily to supplies and equipment delivered to patrons, but the Bureau of Internal Revenue has held the 15 percent restriction applicable in some other cases, notably in the case of frozen food locker rentals. It also applies to dollar amounts paid by patrons to the association as fees for services relating to supply transactions.

It is important that an exempt association provide for a continuous check to insure its compliance with the 15 percent requirement.

The exemption statute provides that "business done for the United States or any of its agencies shall be disregarded in determining the right to exemption." It is advisable for an exempt cooperative to submit a contract with the United States or any of its agencies to the Commissioner of Internal Revenue for consideration before operations commence under the contract and, if possible, before the contract is signed. By so doing, an association may ascertain whether the proposed contract and any operating changes resulting from it will have a detrimental effect upon its exemption status. Normally, the Commissioner of Internal Revenue has followed a policy of not ruling on proposed operating changes in exempt associations until the changes have taken place. Under war conditions, however, rulings in writing have been made in the cases of associations whose exemption status might be affected by changes in operating policies brought about in connection with business undertaken for the United States or its agencies.

REQUIREMENT 4. PERMANENT PATRONAGE RECORDS MUST BE MAINTAINED

Income Tax Regulations 111 contain the following (bracketed wording added):

"In order to show its cooperative nature and to establish compliance with the requirement of the [Internal Revenue] Code that the

proceeds of sales, less necessary expenses, be turned back to all producers on the basis of the products furnished by them, it is necessary for such an [exempt] association to keep permanent records of the business done both with members and nonmembers. The Code does not require, however, that the association keep ledger accounts with each producer selling through the association. Any permanent records which show that the association was operating during the taxable year on a cooperative basis in the distribution of patronage dividends to all producers will suffice. While under the Code patronage dividends must be paid to all producers on the same basis, this requirement is complied with if an association, instead of paying patronage dividends to nonmember producers in cash, keeps permanent records from which the proportionate shares of the patronage dividends due to nonmember producers can be determined, and such shares are made applicable toward the purchase price of a share of stock or of a membership in the association."

An exempt association may not place responsibility for keeping patronage records upon its patrons by distributing savings only on the basis of sales tickets presented by patrons. Failure of the association to maintain adequate patronage records will cost the association its exemption eligibility.

REQUIREMENT 5. RESERVES MUST BE REASONABLE AND NECESSARY

The exemption statute states in connection with farmers', fruit growers', or like associations:

"... nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose ..."

In Regulations 111 of the Bureau of Internal Revenue it is stated further that:

"The accumulation and maintenance of a reserve required by State statute, or the accumulation and maintenance of a reasonable reserve or surplus for any necessary purpose, such as to provide for the erection of buildings and facilities required in business or for the purchase and installment of machinery and equipment or to retire indebtedness incurred for such purposes, will not destroy the exemption."

The Commissioner of Internal Revenue in a ruling dated July 9, 1931, in connection with the same subject stated:

"The phrase, 'reasonable reserve for any necessary purpose' has been construed to include reserves accumulated or maintained to meet the capital expenditures of such associations. Where such an association has investments in buildings, machinery, and other property which, due to depreciation through use in the operations

of the association, eventually reach a point where their usefulness is exhausted, such depreciation in a given year is properly chargeable against the patrons of the association as a part of the 'necessary marketing expenses' of that year, and a reserve for the replacement of such property set up ratably over the period of the useful life of the property will be recognized as a necessary purpose within the meaning of the statute and the departmental regulations."

The foregoing quotations indicate that an exempt association may retain any portion or all of its savings as reserves so long as these reserves can be shown to be reasonable in amount and to be for necessary purposes.

Allowances (or reserves) set up by charging expenses to cover anticipated losses from bad debts, and to provide for depreciation and obsolescence on buildings and equipment are known as valuation reserves and are permissible when reasonable in amount. These reserves represent costs of doing business. The practice by some associations of building up a reserve at higher or excessive depreciation rates in years when savings are relatively large is open to serious question. The basic question of the reasonableness of the reserve is involved as well as another equally important consideration of whether patrons are accorded fair and equitable treatment under a practice of overdepreciating or underdepreciating assets depending upon the amount of annual savings. This procedure, unsound in principle, may have a detrimental effect upon an association's exemption status.

It is advisable for a cooperative to accumulate its depreciation allowance at reasonable rates consistent with those suggested by the Bureau of Internal Revenue in its Bulletin "F." It is further advisable to establish an allowance for bad debts on the basis of past experience combined with a detailed analysis of each current receivable item.

Capital reserves (which include reserves other than expense, or valuation reserves) required by State law are not limited in amount but they must be added to other capital reserves in order that determination may be made as to whether total capital reserves exceed an allowable amount. The burden of proving that capital reserves, other than State reserves, are reasonable and necessary rests with the association.

The July 9, 1931 ruling of the Commissioner of Internal Revenue states with regard to a reserve required by State law "that it must be a reserve required by a State law; a reserve permitted but not required does not meet this test of exemption."

Other reserves that may possibly be regarded as necessary include general reserves providing for possible losses in future years, working capital reserves, reserves for financing or capitalizing necessary assets, reserves for definitely known contingencies such as a pending lawsuit, reserves for educational expenditures, and reserves for post-war declines in inventory values.

Valuation reserves (such as allowances for bad debts, depreciation, etc.) established as expense deductions are not required to be allocated to patrons. Provision for allocating capital reserves (which exclude reserves established by charging expenses) to patrons on a patronage basis must be made.

In the establishment of capital reserves, farmers' cooperatives frequently use the revolving fund method. This method, distinctively cooperative in character and peculiarly adapted to cooperative operation, has as its primary purposes (1) obtaining contributions to capital from patrons on a patronage basis which directly reflects the use made of the association by individual patrons, and (2) retirement of older contributions to the revolving fund so as to place responsibility for financing by patrons primarily on those currently patronizing the association. Credit is given to each patron for his contributions on the basis of either (1) book credit, (2) capital shares, (3) revolving fund certificates, (4) certificates of indebtedness, or (5) other forms of evidence of equity interest. As retirement of the older contributions is made, the evidences of interest - that is, book credits, capital shares, revolving fund certificates, or certificates of indebtedness, etc. - are canceled.

The revolving fund method possesses many advantages for cooperatives and is being employed with increasing frequency. From a cooperative standpoint, the method is important because it assists an association in maintaining those exemption requirements relating to accumulation and maintenance of necessary capital reserves, operation on a cooperative basis, and also to voting control in those cases where revolving of voting shares is a part of the revolving fund plan.

REQUIREMENT 6. VOTING RIGHTS MUST BE HELD BY PRODUCERS

The exemption statute provides that exemption shall not be denied a farmers', fruit growers', or like association

"... because it has capital stock, ... if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association ..."

Regulations of the Bureau of Internal Revenue provide that anyone who shares in the savings effected through a farmers' cooperative marketing association, and is entitled to participate in the management of the association, must be regarded as a member of the association. This interpretation applies also to purchasing associations.

Possession of the right to vote and not the exercising of the right is the controlling factor in establishing membership.

If voting rights in an exempt association are held by producers no longer living in the locality, or by nonproducers, this fact should be reported to the Commissioner of Internal Revenue in order to obtain his opinion as to the effect upon the association's eligibility for exemption. Difficulties of this character can be avoided if the articles of incorporation or the bylaws of the association contain a provision for the calling of stock or the suspension of voting rights when the owner ceases to be a member or producer.

REQUIREMENT 7. DIVIDENDS ON CAPITAL SHARES MUST BE LIMITED

The statute provides that exemption of a farmers', fruit growers', or like association

"... shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued ..."

The dividend rate on all stock, voting or nonvoting, must conform to the requirements of the exemption statute.

If an association is not able to pay the dividend on stock in one or more years, it is believed that the Bureau of Internal Revenue will permit the payment of back dividends later, provided the total dividends paid are not greater in total amount than if dividends had been paid when due.

REQUIREMENT 8. LEGAL STRUCTURE MUST BE COOPERATIVE IN CHARACTER

The statute requires that a farmers', fruit growers', or like association must be "... organized and operated on a cooperative basis ..."

A farmers', fruit growers', or like association to be eligible for exemption must not only be organized so as to meet the requirements for exemption, but it must also be actually operated in the manner and for the purposes stated in Section 101(12) of the exemption statute.

It is important that in at least one of the legal documents of an association the purpose and intention to operate on a cooperative or mutual basis be clearly stated.

The right to exemption is usually determined on the basis of powers exercised by an association and not by those possessed but not actually exercised. However, provisions in the legal papers of an association contrary to cooperative principles, even though such provisions have never been exercised, may affect the association's exemption. The effect of any such provisions may be decided by the Commissioner of Internal Revenue.

It is important that the articles of incorporation, bylaws, or marketing contract do not contain provisions inconsistent with operation on a cooperative basis. Provisions in legal papers that might affect an association's exemption status include: discrimination among members, or between members and nonmembers, in such matters as pricing, patronage refunds, or service fees; exclusion of nonmembers from allocation of patronage refunds; failure to define the interest of nonmembers in savings; forfeiture of any type of credit when a member or nonmember ceases to be a patron; or acceptance of products purchased by members from others.

It is advisable that the articles of incorporation, the bylaws, or the marketing contract include a provision creating an absolute right on the part of the patron to share equitably in operating savings of the association.

PROOF OF EXEMPTION

A farmers' marketing or purchasing association to be regarded as exempt by the Commissioner of Internal Revenue must establish its exemption by filing with the collector of internal revenue for its district proof of exemption on Treasury Department Form 1028, and by obtaining favorable action by the Commissioner. Form 1028, when filled out in accordance with the instructions and accompanied by the required supporting documents, constitutes an application for a ruling of the Commissioner of Internal Revenue declaring the organization to be exempt. If the organization is ruled exempt, it is so advised by a letter from the Commissioner, which is usually referred to as a "letter of exemption." This letter should be carefully preserved as a permanent record of the association.

Until the passage of the Revenue Act of 1943, it was possible, but not advisable, for an association to delay filing its proof of exemption. Under these conditions, the association incurs the risk of ultimately discovering that it is not exempt. The burden of proving its eligibility for each of the years covered by the delay rests on the association. If found to be nonexempt, then it is subject to the assessment of back taxes and penalties.

The passage of the Revenue Act of 1943, however, sets up a requirement for the filing of annual information returns by many organizations, including farmers' marketing and purchasing associations, exempt from liability for payment of Federal income tax. An association, therefore, must either (1) establish its exemption by obtaining a letter of exemption from the Commissioner of Internal Revenue and file the required annual information return on Treasury Department Form 990 (Revised May 1944), or (2) file a tax return as a nonexempt organization on Treasury Department Form 1120.

No association subject to Federal income tax statutes prior to the enactment of the Revenue Act of 1943 was warranted in taking the risk

inherent in not establishing its exemption status. The group of associations claiming to be exempt but which have not had their exempt status affirmed is now eliminated, since it is no longer possible under the law to delay filing proof of exemption if an association desires to be regarded as an exempt organization.

MAINTAINING EXEMPTION

Exemption continues only as long as the legal set-up and the operating methods of the association are in accord with the requirements of the statute controlling exemption. Maintaining an exempt status requires constant attention to the legal structure and operating policies and methods of an association.

Failure of an association affirmed as exempt to maintain its exempt status will subject the association to the possible assessment and payment of taxes and penalties for the period during which the Commissioner determines that the association has been in a nonexempt status.

The letter of exemption places on an association the responsibility of reporting to the Commissioner of Internal Revenue any changes in its legal set-up or operating methods. Although an exempt association is required to report any such changes not previously reported when it files its annual information return, it is believed to be more advisable to report these changes promptly rather than to await the annual filing date for the information return.

If an association loses its exemption through revocation of its letter of exemption by the Commissioner of Internal Revenue and has reason to believe that on the basis of additional facts its claim for exemption should stand, it may request the Commissioner to refer his ruling for review to the Chief Counsel of the Bureau of Internal Revenue. Additional steps in appeal include review by the Bureau's technical staff; the assessment of a tax by the local revenue agent; and its review by The Income Tax Unit, The Tax Court of the United States (formerly the Board of Tax Appeals), and the appellate courts.

In order to maintain continued eligibility for exemption, associations should obtain competent advice before making any changes in their organization papers or operating methods.

INFORMATION RETURNS REQUIRED FROM TAX-EXEMPT ORGANIZATIONS

Many exempt organizations including agricultural marketing and purchasing associations are required under the provisions of the Revenue Act of 1943 to file annual information returns for the first time. Previously, associations declared exempt by the Commissioner of Internal Revenue have not been required to make further reports unless changes in legal structure or operating methods have been made. The present law requires, with certain exceptions not applicable to farmers' business organizations, that all organizations exempt under Section 101 of the Internal Revenue Code or under corresponding provisions of prior revenue acts, file annual information returns.

A farmers' marketing or purchasing organization that has not previously made application for a letter of exemption may file its application on Treasury Department Form 1028 at the same time it files its first annual information return.

The annual information return now required from exempt organizations is to be prepared on Treasury Department Form 990 (Revised May 1944).

All of the Treasury Department forms referred to in this publication (990, 1028, and 1120) may be obtained from the collector of internal revenue for the district in which the principal office or the principal place of business of the association is located; the forms when properly filled out are to be returned together with any required supporting documents to his office.

FILING DATE FOR INFORMATION RETURNS

Information returns are required to be filed by the fifteenth day of the fifth full calendar month following the close of an association's annual accounting period. The first fiscal period for which returns were due from farmers' exempt marketing and purchasing associations was the one ending December 31, 1943. Because the form for filing the returns was delayed in its preparation, returns for fiscal years ending between December 31, 1943 and March 31, 1944, both dates inclusive, were required not later than August 15, 1944. Information returns for fiscal years ending subsequent to March 31, 1944, are required to be filed by the fifteenth day of the fifth full calendar month following the close of an organization's annual accounting period. The difference between the filing date for information returns on Treasury Department Form 990 and the date for tax returns filed on Treasury Department Form 1120 should be carefully noted, as such tax returns are due on the fifteenth day of the third month following the close of a nonexempt organization's taxable year.

INCORPORATED AND UNINCORPORATED ASSOCIATIONS

The exemption provisions and the requirements relating to the filing of annual information returns apply to both incorporated and unincorporated associations, a fact that is not generally understood. The term "corporation" as used in connection with the Federal income tax, according to Regulations 111 of the Bureau of Internal Revenue, includes not only the "artificial entity usually known as a corporation, but includes also an association ... and certain kinds of partnerships." An association includes "any organization, created for the transaction of designated affairs, or the attainment of some object, which, like a corporation, continues notwithstanding that its members or participants change, and the affairs of which, like corporate affairs, are conducted by a single individual, a committee, a board, or some other group, acting in a representative capacity. It is immaterial whether such organization is created by an agreement, a declaration of trust, a statute, or otherwise."

Unincorporated associations which maybe regarded legally as partnerships because of the unlimited liability of individual members are also classed as corporations for Federal income tax purposes. The Regulations state, in connection with partnerships, that "If an organization is not interrupted by the death of a member or by a change in ownership of a participating interest during the agreed period of its existence, and its management is centralized in one or more persons in their representative capacities, such an organization is an association, taxable as a corporation." If an organization is a farmers' association, then it may qualify as an exempt association, provided it is organized and operated in such manner as to meet the requirements for exemption. The fact that it is unincorporated, however, does not remove it from its liabilities under Federal income tax law.

EXEMPTION FROM PAYMENT OF OTHER FEDERAL TAXES

An association exempt from payment of the Federal income tax is also exempt from payment of such Federal taxes as the capital stock tax, the excess profits tax, and the documentary stamp tax on the issue and transfer of stocks, bonds, certificates of indebtedness, revolving fund certificates, and other securities. An exempt association also is not subject to the payment of Federal employment taxes for an employee whose remuneration does not exceed \$45 during a calendar quarter. Savings returned by farmer cooperatives to their patrons must be taken into account in the preparation of the patrons' individual Federal and State income tax returns.